

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DAVID L. CUMMIN, M.D., *et al.*

Plaintiffs,

V.

LANNY NORTH, *et al.*

Defendants.

Case No. 2:15-cv-1043

Judge Sargus
Magistrate Judge King

**PLAINTIFFS' MOTION TO HAVE REQUESTS FOR ADMISSIONS DEEMED
ADMITTED AS TRUE PURSUANT TO FED. CIV. R. 36(a)(e) AS TO DEFENDANT
HOCKING COUNTY COMMISSIONERS, DEFENDANT SANDY OGLE, JOHN
WALKER AND DEFENDANT CLARK SHEETS**

Plaintiff David L. Cummin, M.D. (“Plaintiff”), by and through counsel, hereby moves the Court pursuant to the provisions of Fed. Civ. R. 36(a)(3) to have requests for admissions served upon (i) the Defendant Hocking County Commissioners, (ii) Defendant Sandy Ogle, (iii) Defendant John Walker, and (iv) Defendant Clark Sheets deemed admitted as true for the reasons that the Defendants, despite having an extension pursuant to Rule 29, have not responded to their requests for admissions served upon each of them from anywhere from 88-94 days, as each respective case maybe since service of the requests for admissions, all of which more fully appears in the memorandum below.

Respectfully submitted,
BRUNNER QUINN

/s/ Rick L. Brunner

Rick L. Brunner (0012998)
Email: rlb@brunnerlaw.com
Peter A. Contreras (0087530)
Email: pac@brunnerlaw.com
BRUNNER QUINN
35 North Fourth Street, Suite 200
Columbus, Ohio 43215
Telephone: (614) 241-5550
Facsimile: (614) 241-5551
Attorneys for Plaintiff

MEMORANDUM IN SUPPORT

Attached hereto as **Exhibits 1, 2, 3 and 4**, are the first pages of the cover letters for the discovery requests served upon the Defendant Hocking County Commissioners, Defendant John Walker, Defendant Sandy Ogle and Defendant Clark Sheets. These discovery requests were served upon Defendant Hocking County Commissioners and Defendant John Walker on July 24, 2015, and were served upon Defendant Sandy Ogle and Defendant Clark Sheets on July 30, 2015. Having been served electronically, their responses were due in thirty (30) days, or respectively August 23, 2015 or August 29, 2015, as the case may be. Plaintiffs admit granting an extension to respond to discovery until September 25, 2015, and then granting a further extension through October 9, 2015. Since that time, however, none of these Defendants have responded. Exhibits 1 through 4 attached hereto provide in their relevant part as follows:

“Please note that the enclosed has approximately 26 Requests for Admission. The Requests for Admissions appear at Discovery Request numbers 21, 23, 27, 29, 31, 34, 36, 38, 40, 42, 45, 48, 50, 52, 55, 58, 61, 64, 66, 68, 70, 72, 75, 79, 82 and 84. In the event that I have misstated a number of the discovery requests, you may identify Requests for Admissions because they usually contain the phrase “do you admit . . .”

As you are aware, Fed. Civ. R. 36, at the fourth paragraph of subdivision ‘a’, provides as follows:

If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or

deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest. The answering party may assert lack of knowledge or information as a reason for failing to admit or deny only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.

As you are also aware, Fed. Civ. R. 36(a) provides that a matter is deemed admitted unless denied within the thirty (30) day time period. Those discovery time limits will be strictly enforced unless we otherwise agree in writing.”

Each Defendant was asked twenty-six (26) requests for admissions which are fully set forth in **Exhibit 5** attached hereto.

Fed. Civ. R. 36(a)(3) provides in its relevant part as follows:

“(3) Time to Respond; Effect of Not Responding. A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney. A shorter or longer time for responding may be stipulated to under Rule 29 or be ordered by the court.”

Based upon the foregoing, Plaintiffs are entitled to have the requests for admissions deemed admitted as true as to the Defendant Hocking County Commissioners, Defendant John Walker, Defendant Sandy Ogle and Defendant Clark Sheets.

Respectfully submitted,

BRUNNER QUINN

/s/ Rick L. Brunner

Rick L. Brunner (0012998)

Email: rlb@brunnerlaw.com

Peter A. Contreras (0087530)

Email: pac@brunnerlaw.com

BRUNNER QUINN

35 North Fourth Street, Suite 200

Columbus, Ohio 43215

Telephone: (614) 241-5550

Facsimile: (614) 241-5551

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was filed with the Court's electronic filing system this 27th day of October 2015, which will send electronic notice to the following:

Randall L. Lambert, Esq.
Lambert Law Office
215 South Fourth Street
P.O. Box 725
Ironton, Ohio 45638
Email: rlambert@lambert-law.org.
Attorney For Defendants

/s/ Rick L. Brunner
Rick L. Brunner (0012998)

EXHIBIT 1



PARTNERS
Rick L. Brunner * ♦
Patrick M. Quinn

ASSOCIATES
Peter A. Contreras †

OF COUNSEL
Steven M. Brown

* Also admitted in PA
† Also admitted in FL
♦ Also admitted in DC
° Also admitted in NY

Peter A. Contreras
35 North Fourth Street
Suite 200
Columbus, Ohio 43215
(614) 241-5550, Ext. 228
(800) 776-3158, Toll-Free
(614) 241-5551, Fax
pac@brunnerlaw.com

July 24, 2015

Via Regular U.S. & Electronic Mail

Randall L. Lambert, Esq.
Lambert Law Office
215 South Fourth Street
P.O. Box 725
Ironton, Ohio 45638
Email: rlambert@lambert-law.org

RE: *David L. Cummin, M.D., et al. v. Lanny North, et al.*
United States District Court, Case No. 2:15-cv-01043

Counselor:

Enclosed herewith is *Plaintiff's First Set of Requests for Admissions and Interrogatories and Requests for Production of Documents to Defendant Hocking County Board of Commissioners* in connection with the above-referenced matter of litigation. Please note that because the enclosed is being served upon you via electronic mail, you have only thirty (30) days in which to respond to this discovery and are not entitled to the three (3) additional days for mail service, pursuant to Fed. Civ. R. 6(d).

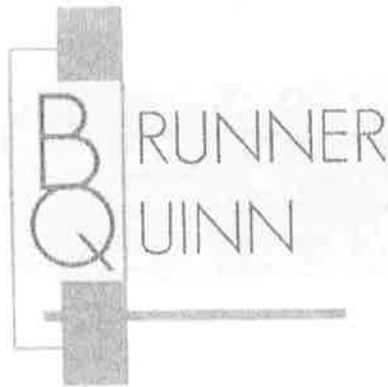
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EXHIBIT 2



PARTNERS
Rick L. Brunner * o o
Patrick M. Quinn

ASSOCIATES
Peter A. Contreras †

OF COUNSEL
Steven M. Brown

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o Also admitted in DC
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Peter A. Contreras
35 North Fourth Street
Suite 200
Columbus, Ohio 43215
(614) 241-5550, Ext. 228
(800) 776-3158, Toll-Free
(614) 241-5551, Fax
pac@brunnerlaw.com

July 24, 2015

Via Regular U.S. & Electronic Mail

Randall L. Lambert, Esq.
Lambert Law Office
215 South Fourth Street
P.O. Box 725
Ironton, Ohio 45638
Email: rlambert@lambert-law.org.

RE: *David L. Cummin, M.D., et al. v. Lanny North, et al.*
United States District Court, Case No. 2:15-cv-01043

Counselor:

Enclosed herewith is *Plaintiff's First Set of Requests for Admissions and Interrogatories and Requests for Production of Documents to Defendant John Walker* in connection with the above-referenced matter of litigation. Please note that because the enclosed is being served upon you via electronic mail, you have only thirty (30) days in which to respond to this discovery and are not entitled to the three (3) additional days for mail service, pursuant to Fed. Civ. R. 6(d).

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EXHIBIT 3



PARTNERS
Rick L. Brunner * ♦ ♦
Patrick M. Quinn

ASSOCIATES
Peter A. Contreras †

OF COUNSEL
Steven M. Brown

* Also admitted in PA
† Also admitted in FL
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Rick L. Brunner
35 North Fourth Street
Suite 200
Columbus, Ohio 43215
(614) 241-5550, Ext. 219
(800) 776-3158, Toll-Free
(614) 241-5551, Fax
rlb@brunnerlaw.com

July 30, 2015

Via Regular U.S. & Electronic Mail

Randall L. Lambert, Esq.
Lambert Law Office
215 South Fourth Street
P.O. Box 725
Ironton, Ohio 45638
Email: rlambert@lambert-law.org.

RE: *David L. Cummin, M.D., et al. v. Lanny North, et al.*
United States District Court, Case No. 2:15-cv-01043

Counselor:

Enclosed herewith is *Plaintiff's First Set of Requests for Admissions and Interrogatories and Requests for Production of Documents to Defendant Sandy Ogle* in connection with the above-referenced matter of litigation. Please note that because the enclosed is being served upon you via electronic mail, you have only thirty (30) days in which to respond to this discovery and are not entitled to the three (3) additional days for mail service, pursuant to Fed. Civ. R. 6(d).

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EXHIBIT 4



PARTNERS
Rick L. Brunner * ♦ °
Patrick M. Quinn

ASSOCIATES
Peter A. Contreras †

OF COUNSEL
Steven M. Brown

* Also admitted in PA
† Also admitted in FL
♦ Also admitted in DC
° Also admitted in NY

Rick L. Brunner
35 North Fourth Street
Suite 200
Columbus, Ohio 43215
(614) 241-5550, Ext. 219
(800) 776-3158, Toll-Free
(614) 241-5551, Fax
rlb@brunnerlaw.com

July 30, 2015

Via Regular U.S. & Electronic Mail

Randall L. Lambert, Esq.
Lambert Law Office
215 South Fourth Street
P.O. Box 725
Ironton, Ohio 45638
Email: rlambert@lambert-law.org.

RE: *David L. Cummin, M.D., et al. v. Lanny North, et al.*
United States District Court, Case No. 2:15-cv-01043

Counselor:

Enclosed herewith is *Plaintiff's First Set of Requests for Admissions and Interrogatories and Requests for Production of Documents to Defendant Clark Sheets* in connection with the above-referenced matter of litigation. Please note that because the enclosed is being served upon you via electronic mail, you have only thirty (30) days in which to respond to this discovery and are not entitled to the three (3) additional days for mail service, pursuant to Fed. Civ. R. 6(d).

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EXHIBIT 5

21. Do you admit paragraph 9 of the Plaintiffs' Complaint is true?

ANSWER:

23. Do you admit paragraph 20 of the Plaintiffs' Complaint is true?

ANSWER:

27. Do you admit paragraph 26 of the Plaintiffs' Complaint is true?

ANSWER:

29. Do you admit paragraph 27 of the Plaintiffs' Complaint is true?

ANSWER:

31. Do you admit paragraph 28 of the Plaintiffs' Complaint is true?

ANSWER:

34. Do you admit paragraph 29 of the Plaintiffs' Complaint is true?

ANSWER:

36. Do you admit paragraph 30 of the Plaintiffs' Complaint is true?

ANSWER:

38. Do you admit paragraph 35 of the Plaintiffs' Complaint is true?

ANSWER:

40. Do you admit paragraph 36 of the Plaintiffs' Complaint is true?

ANSWER:

42. Do you admit paragraph 37 of the Plaintiffs' Complaint is true?

ANSWER:

45. Do you admit paragraph 43 of the Plaintiffs' Complaint is true?

ANSWER:

48. Do you admit paragraph 44 of the Plaintiffs' Complaint is true?

ANSWER:

50. Do you admit paragraph 45 of the Plaintiffs' Complaint is true?

ANSWER:

52. Do you admit paragraph 46 of the Plaintiffs' Complaint is true?

ANSWER:

55. Do you admit paragraph 54 of the Plaintiffs' Complaint is true?

ANSWER:

58. Do you admit paragraph 54 of the Plaintiffs' Complaint is true?

ANSWER:

61. Do you admit paragraph 60 of the Plaintiffs' Complaint is true?

ANSWER:

64. Do you admit paragraph 57 of the Plaintiffs' Complaint is true?

ANSWER:

66. Do you admit paragraph 58 of the Plaintiffs' Complaint is true?

ANSWER:

68. Do you admit paragraph 59 of the Plaintiffs' Complaint is true?

ANSWER:

70. Do you admit paragraph 61 of the Plaintiffs' Complaint is true?

ANSWER:

72. Do you admit paragraph 62 of the Plaintiffs' Complaint is true?

ANSWER:

75. Do you admit paragraph 37 of your Answer is not true?

ANSWER:

79. Do you admit paragraph 108 of the Plaintiffs' Complaint is true?

ANSWER:

82. Do you admit paragraph 110 of the Plaintiffs' Complaint is true?

ANSWER:

84. Do you admit paragraph 109 of the Plaintiffs' Complaint is true?

ANSWER: